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ABSTRACT

This policy brief describes how legislation can ensure that high-quality charter schools emerge from the chartering process. State legislatures do not decide which applicants receive charters, but leave these choices up to "chartering entities" (state and local boards of education) by giving them the power to grant charters. However, state laws set the framework within which chartering entities make their decisions and can significantly affect school selection and quality. Five critical elements influence charter-school selection: who may apply, who may issue charters, how many charter schools are permitted, the criteria for obtaining a charter, and selection-process details. Charter laws in SERVE states (Florida, Georgia, Mississippi, North Carolina, and South Carolina) vary widely on numbers of charter schools allowed, but all five laws either state or imply that chartering entities should closely examine the school's educational program, instructional methods, performance goals, plans for measuring progress, and governance structure. All laws but Florida's ask reviewers to consider the school's plan to involve parents, teachers, and others in designing, managing, or evaluating the school. There are three types of selection processes (annual cycles, restricted rolling, and unrestricted rolling). There are unresolved policy issues in SERVE states. (MLH)

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SERVE Policy Brief

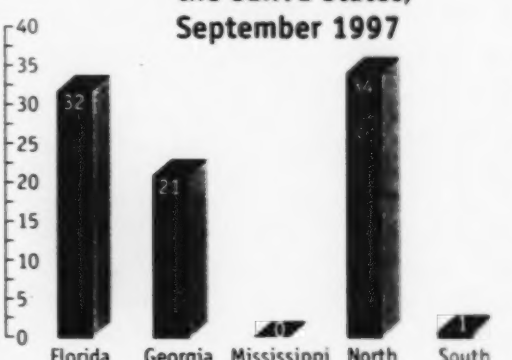
Selecting High-Quality Charter Schools: What Policymakers Can Do

ED 421 797

Charter schools are a new but increasingly common form of public school in the United States. In exchange for freedom from many of the rules and laws that constrain conventional public schools, charter schools agree to be held accountable for results spelled out in a contract, or "charter," with some public agency. Though they remain public schools—tuition-free, non-religious, and non-selective in their admissions—charter schools have the opportunity to experiment with new organizational structures and ways of teaching students. Proponents hope charter schools will devise innovative approaches to education and place competitive pressure on regular public schools to improve (Kolderie, 1990).

Since Minnesota enacted the first charter school law in 1991, legislation has spread rapidly across the U.S. By September of 1997, 30 states and the District of Columbia had charter laws on the books, and nearly 500 charter schools were open during the 1996-97 school year. Among the SERVE states, Georgia enacted the region's first charter law in 1993, followed by Florida, North Carolina, South Carolina, and Mississippi (Alabama has not enacted a charter school law). In these five states, 88 charter schools were open at the beginning of the 1997-98 school year. Research on this growing sector of schools is just beginning to emerge, a step that will lead to the examination of policy issues charter schools raise (RPP International and the University of Minnesota, 1997).

Figure 1. Number of Charter Schools in Five of the SERVE States, September 1997



Source: State Departments of Education

Now that the nation has several years of experience with charter schools, policymakers have begun to revisit the legislation they passed in the early days of the charter concept. This policy brief addresses one of the central questions policymakers are asking about effective charter laws: *how can legislation ensure that high-quality schools emerge from the charter process?*

State legislators do not make decisions about which applicants receive charters. Instead, they leave these choices to "chartering entities"—such as state and local boards of education—by giving them the power to issue charters. But state laws set the framework within which these chartering entities make their decisions. Consequently, state charter laws have a significant impact on the selection of charter schools and, ultimately, on the quality of the schools that open.

This policy brief examines five critical elements of state charter laws that influence the selection of charter schools. An explanation of how charter laws in the five states address each element is provided. A subsequent section presents issues for policymakers in the Southeast.

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Elements of Charter Laws That Influence the Selection Process

Who May Apply for a Charter?

Most charter laws invite at least some people from outside the existing public school system to submit applications. These commonly include individual citizens, informal groups, and nonprofit organizations. Some of the most restrictive laws allow only existing public schools to convert to charter status. More rarely, states allow existing private or home-based schools to convert to charter status or invite for-profit businesses to submit charter applications. Each state's charter legislation specifies the range of eligible applicants, thereby impacting the selection process.

The range of options selected by five SERVE states is described in *Figure 2*. Georgia and Mississippi allow only existing public schools to convert. The other three enable individuals, informal groups, and nonprofit organizations to apply, as well. North and South Carolina also invite existing private or home-based schools to seek charter status. While Florida does not enable existing private and home-based schools to apply, it allows for-profit businesses to seek charters, a practice prohibited in the other four states.

Who May Issue Charters?

State charter laws also determine which public bodies have the power to issue charters, and the central issue is the role local school boards play in the process. In some states, local school boards have the power by law to veto any charter school proposed in their jurisdictions. In other states, other entities, such as the state board of education, can approve charter schools even if the local school board does not agree. Still other states lie in between, requiring applicants to approach their local school boards first but allowing rejected applicants to appeal local decisions to the state board of education. Some states also empower other organizations entirely (such as public universities, community colleges, and specially created charter school boards) to issue charters.

As *Figure 3* reveals, SERVE states exhibit all of these arrangements. Charter applicants must first approach their local school boards in all states except North Carolina, where they may also apply to the boards of public universities or to the state board of education. In Georgia and Mississippi, a local board's rejection of an application is final. But in both states, the state board of education can overrule a local board's approval. The same is true in North and South Carolina, but in these states the state board can also overrule a local board's rejection of an application. In Florida, the local board's decision is final, though the state board may hear appeals and require local boards to reconsider.

How Many Charter Schools May There Be?

A third way in which state legislation affects the selection process is by the placement of limits on the number of charter schools that may open. Some of these provisions cap the number of charter schools statewide. Others limit the number within a single school district or region of the state. Some are absolute caps, limiting the number of schools that may be open at any one time, while others are annual limits, restricting the number of schools that may open in a given year.

Charter laws in SERVE states vary widely on this dimension, as *Figure 4* illustrates. Georgia and South Carolina place no limits on the number of charter schools. North Carolina imposes a statewide cap of 100, with no more than five opening per year in a single school district. Florida allows between six and 14 charter schools in a single district, depending on the size of the district. Mississippi allows only six charter schools statewide and requires a geographic spread, if feasible.

What Are the Criteria to Obtain a Charter?

A fourth important aspect of state charter laws is the criteria for obtaining a charter. With these provisions legislatures indicate the factors chartering entities must use when deciding whether to grant a charter to a specific

Figure 2. Eligible Charter School Applicants in SERVE States

	Existing public schools	Individuals, informal groups, and nonprofits	Private or home-based schools	For-profit businesses
[illegible]	✓	✓		✓
[illegible]	✓			
[illegible]	✓			
[illegible]	✓	✓	✓	
[illegible]	✓	✓	✓	

Note: Though charter laws in North and South Carolina do not prohibit home-based educational programs from applying for charters, these laws do not allow approved charter schools to be home-based.

applicant. Some laws state these criteria explicitly, while others imply criteria by specifying the information applicants must provide to chartering entities as part of their petitions. For example, if a charter law requires applicants to explain their governance structures, chartering entities can infer that they need to take the viability of these structures into account when making decisions.

Charter laws in SERVE states ask chartering entities to consider a wide range of factors when they review charter applications. These factors are summarized in *Figure 5*. All five laws either state or imply that chartering entities should closely examine the school's educational program, instructional methods, performance goals, plans to measure progress, and governance structure. All laws but Florida's ask reviewers to consider the school's plan to involve parents, teachers, and others in the design, management, or evaluation of the school. Beyond these commonalities, though, different laws emphasize different factors.

All state laws give chartering entities considerable discretion in their decision making. This discretion takes two forms. First, the criteria tend to be open-ended, leaving room for chartering entities to interpret the meaning of phrases like "economically sound." Second, while all of the laws list numerous factors chartering entities must consider, none provide guidance about how important each of these factors should be in the final analysis.

Figure 3. Roles of Chartering Entities in SERVE States

	Applicants must first approach local school board	State board can overrule local rejections	State board can overrule local approvals	Universities may play a role in chartering schools
Florida	✓			✓
Georgia	✓		✓	
Mississippi	✓		✓	
North Carolina		✓	✓	✓
South Carolina	✓	✓	✓	

Note: In Florida, rejected applicants may appeal to the state board of education. The state board can remand the decision for reconsideration but cannot overrule the local board's rejection.

What Are the Details of the Selection Process?

Charter legislation also affects the selection of charter schools by mandating certain details of the selection process. U.S. laws establish three broad types of selection processes.

(1) *Annual* cycles that require applications to be submitted and decisions to be made by certain dates
(2) *Restricted rolling processes* that allow applications to be submitted any time but require decisions to be made within a certain timeframe following submission
(3) *Unrestricted rolling processes* that allow applications to be submitted at any time but do not impose any timetable on decision making

Legislation may also affect the process by requiring that chartering entities conduct public hearings or other information-gathering activities.

Laws in the five SERVE states exhibit each of the three broad types of selection processes. North Carolina's law mandates an annual application cycle. Legislation in Florida and South Carolina institute restricted rolling processes. Mississippi's and Georgia's laws contain unrestricted rolling pro-

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Figure 4. Limits on the Number of Charter Schools in SERVE States

	Per-district limits	Statewide limits
Florida	[illegible]	Sum of district limits (478 in 1996-97)
Georgia	None	None
Mississippi	None**	6
North Carolina	[illegible] per year	100
South Carolina	None	None

* Florida's law allows up to three newly created charter schools and up to three conversions of existing public schools in most of its school districts (those with fewer than 50,000 students); up to seven of each kind in each of its largest school districts (100,000 or more students); and up to five of each kind in each of its other school districts.

** Though Mississippi's law contains no per-district limits, requirements for geographic spread of the state's six charter schools makes it less likely that more than one charter school would open in a single district.

Figure 5. Factors Chartering Entities Must Consider in SERVE States

Factors chartering entities must consider	FL	GA	MS	NC	SC
Education plan					
School mission and target population	✓				✓
Educational programs and instructional methods	✓	✓	✓	✓	✓
Performance goals and measures	✓	✓	✓	✓	✓
Qualifications of employees	✓			✓	
Terms of employment for teachers					✓
Business and governance plan					
Governance structure	✓	✓	✓	✓	✓
Provisions for parent, educator, and/or community involvement		✓	✓	✓	✓
Economic soundness of the plan	✓			✓	✓
Timetable for implementation	✓				
School facility	✓			✓	✓
Transportation plan				✓	✓
Audit plans, insurance, or other administrative procedures	✓			✓	✓
Students					
Admissions policies	✓			✓	✓
Plan to achieve racial balance	✓				✓
Preference for schools serving at-risk children				✓	
Discipline procedures				✓	
Community support					
Evidence of support from teachers, parents, and students					✓
If a converted public school:					
fraction of teachers that must approve	Majority	1/2	Majority	Majority	2/3
fraction of parents that must approve	Majority	1/2	Majority	"Significant Number"	2/3
The applicant team					
Capability of applicant to operate school in educationally and economically sound manner				✓	
Impact of school					
Adverse effects of school on rest of district				✓	✓

Note: This table does not include more standard requirements, e.g., that the proposed school intends to follow laws (such as nondiscrimination, health and safety, and special education) that apply to it.

Continued From Page 3

cesses. South Carolina alone requires any particular information-gathering activities, asking chartering entities to hold community meetings in affected areas to solicit input on specific applications. *Figure 6* provides more information on how the five state laws treat the details of the selection process.

Policy Issues in SERVE States

As they revisit charter legislation in the next few years, policymakers in each of the SERVE states will confront some difficult policy decisions, and many of these decisions will relate to the way in which charter schools are selected.

Three states—Florida, Georgia, and Mississippi—give local school boards the final decision over whether to grant charters in their jurisdictions. Policymakers in these states may be asked to give rejected applicants some other avenue of approval.

Two states—Georgia and Mississippi—allow only existing public schools to apply for charter status. Policymakers in these states may be asked to enable outside groups to submit charter applications.

Three states—Florida, Mississippi, and North Carolina—place caps on the number of charter schools that can open. As the pool of existing charter schools nears these caps, policymakers may face the question of whether to raise, eliminate, or modify them.

Despite setting out some criteria, all five states leave great discretion in the hands of chartering entities. As real candidates are approved and rejected, policymakers may encounter calls to clarify or change criteria that chartering entities are applying under.

Policymakers may also consider changing selection processes. North Carolina's annual cycle, for example, does not issue approvals until March 15 of each year, a date which some have suggested is too late for many schools to open the following fall. And Georgia and Mississippi's unrestricted rolling processes may come under attack for not providing applicants with assurances that their applications will be reviewed in a timely fashion.

Since the charter school phenomenon is so young, it is impossible to accurately predict the consequences of most of these proposed policy changes. One consistent finding, though, is that states with more "restrictive" charter laws have spawned fewer charter schools than states with less restrictive legislation. By "restrictive," researchers mean provisions like those that limit eligible charter applicants to existing public schools, grant local school boards the power to veto charter schools, and set caps on the number of charter schools.

An analysis by the Education Commission of the States (Bierlein, 1996), for example, divides state charter laws

Figure 6: Charter Selection Processes Mandated by SERVE State Laws

Annual cycle—*North Carolina*

- All applications must be submitted prior to Nov. 1
- Chartering entities must grant/deny preliminary approval by Feb. 1
- Rejected applicants choosing to appeal must do so by Feb. 15
- State board of education must make all final decisions by Mar. 15

Restricted rolling process—*Florida and South Carolina*

Florida

- Applicants may submit petitions at any time
- Local school board must grant/deny approval within 60 days
- Rejected applicants choosing to appeal must do so within 30 days
- State board of education must rule on appeals within 30 days
- Upon remand from state, local board must rule again within 30 days

South Carolina

- Applicants may submit petitions at any time (though local boards may establish a schedule)
- Local school board must hold community meetings to discuss
- Local school board must grant/deny approval within 60 days
- Rejected applicants choosing to appeal must do so within 30 days
- State board of education must rule on appeals within 30 days
- Upon remand from state, local board must rule again within 30 days

Unrestricted rolling process—*Georgia and Mississippi*

- Applicants may submit petitions at any time
- No stated time-frame within which local school board must rule
- If local board rejects an application, it must inform faculty and state board of reasons; state board may hold hearing to discuss
- If local board approves, state board must grant or deny approval, but under no stated time-frame

into less restrictive and more restrictive categories. Extending this analysis to all 17 states with charter schools in operation in 1996-97, more restrictive states had an average of 4.2 schools open, versus 49.6 in less restrictive states. As of May 1997, just 10 charter schools have operated in "restrictive" Georgia, compared with 166 in Arizona, 109 in California, 79 in Michigan, and 32 in Colorado, all "less restrictive" states (Center for Education Reform, 1997).

As states develop more experience with charter schools, additional research into the links between legislative provisions and the quality of the charter schools that emerge will be possible. Test scores and other measures of student performance in charter schools are just becoming available. With these data and other information about how charter schools are faring, researchers will be able to provide policymakers with increasingly more information about which kinds of selection processes yield higher-performing charter schools. ●

References

Bierlein, Louann A. (1996a). *Charter schools: Initial findings*. Denver: Education Commission of the States.

Center for Education Reform (1997). *Charter school highlights and statistics*. (Available at http://edreform.com/pubs/chglance.htm)

Kolderie, Ted. 1990. *Beyond choice to new public schools: Withdrawing the exclusive franchise in public education*. Washington: Progressive Policy Institute.

RPP International and the University of Minnesota (1997). *A study of charter schools*. Washington: U.S. Department of Education. (Available at http://www.ed.gov/pubs/charter)

Charter School Statutes in the SERVE States

Florida—Florida Charter School Legislation — Section 228.056
(http://www.firn.edu/doe/bin00038/chrtlegi.htm)

Georgia—The Charter Schools Statute — O.C.G.A. 20-2-255
(http://gadoe.gac.peachnet.edu/charterschools/ocga.html)

Mississippi—Mississippi Code — Chapter 37-28-1 through 21

North Carolina—The Charter Schools Act — G.S. 115C-238-29
(http://www.ncga.state.nc.us/.html1997/bills/senate/ratified/sbil0297.full.html)

South Carolina—The Charter School Act — C.L.S.C. 59-40
(http://www.lpitr.state.sc.us/bil95-96/4443.htm)

For more information about charter school programs nationwide, see the U.S. Charter Schools Web site at http://www.uscharterschools.org.

About the SERVE Organization

SERVE, the Southeastern Regional Vision for Education, is a consortium of educational organizations whose mission is to promote and support the continual improvement of educational opportunities for all learners in the Southeast. Formed by a coalition of business leaders, governors, policymakers, and educators seeking systemic, lasting improvement in education, the organization is governed and guided by a Board of Directors that includes the chief state school officers, governors, and legislative representatives from Alabama, Florida, Georgia, Mississippi, North Carolina, and South Carolina. SERVE's core component is a regional educational laboratory funded since 1990 by the Office of Educational Research and Improvement (OERI), U.S. Department of Education. Committed to creating a shared vision of the future of education in the Southeast, the consortium impacts educational change by addressing critical issues in the region, acting as a catalyst for positive change, and serving as a resource to individuals and groups striving for comprehensive school improvement.

Roy H. Forbes, Ed.D.
Executive Director, SERVE

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